

CONTINUATION SHEET 1, SPECIAL CONDITIONS

A copy of the permit must be available at the site and all contractors must abide by the permit conditions.

2. The work must be in accordance with the site plans and mitigation plans attached to this permit and the information submitted in support of the permit application. Upon completion of the project, the applicant must certify that the work authorized under the permit and the required mitigation was done in accordance with the DA authorization, including any general or special conditions.
3. The discharge will consist of suitable material free from toxic pollutants in toxic amounts.
4. A strict erosion and sediment control program must be instituted and maintained for the life of the project. Disturbance to riparian vegetation, particularly woody species, must be kept to a minimum during construction. Adequate erosion and sediment controls measure including entrenched silt fencing, temporary seeding and mulching, and staked straw or hay bales shall be installed and maintained around all disturbed earthen areas until those areas are stabilized and revegetated. Disturbed areas must be properly seeded, ripped, or otherwise stabilized as soon as practicable to prevent material from eroding into any waters or wetlands.
5. Temporary fills that may be required in waters of the U.S. shall consist of non-erodible materials. Temporary fills must be completely removed from the waterway upon completion of the work and preconstruction contour must be reestablished.
6. Work in and along streams shall be accomplished during low flow periods to minimize stream impacts. Appropriate measures shall be taken to maintain near normal downstream flow throughout the construction phase.
7. Unless authorized by this or other DA permit, excess materials associated with the project or mitigation shall be disposed of in an upland area. No material shall be disposed of in waters of the U.S. including wetlands except for the filling authorized by the permit.
8. Crossings shall be designed and constructed to accommodate high flow conditions.
9. Culvert inverts must be placed level with or below the existing substrate to avoid restrictions to low flows and to prevent restriction to aquatic organism movement within the stream channel.
10. A plug shall remain intact to separate the new and existing channels during the construction of the new channel. Water shall not be released through the new channel until it has been completed and stabilized.
11. The stream and wetland impacts shall be mitigated by payments totaling \$5,253,220.65 into the Kentucky Department for Fish and Wildlife Resources (KDFWR) In-Lieu-Fee (ILF) program. A portion of the ILF payment may be substituted with preservation credits available at the Sinking Creek parcel in Laurel County, Kentucky once the credits are documented and approved by the KDOW and USACE. A copy of the receipts for the ILF payments must be provided to this

office when the payment(s) has been made. Payment(s) can be paid incrementally in conjunction with the construction sections outlined by in the attached ILF table. A status letter shall be submitted to this office by December 31 of each year identifying the extent of the permitted work that has commenced and verification of the corresponding ILF payment(s). The payment(s) must be made in a timely manner, prior or concurrent with commencement of the permitted activities.

12. This permit does not authorize you to take any endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed BO contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" specified in the BO. Your authorization under this permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with the NWP. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

13. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

14. Excess materials associated with the project shall be disposed of in an upland area. No material shall be disposed of in waters of the U.S. except for the filling authorized by the permit.